

4 APR 1978

MEMORANDUM FOR: Comptroller

FROM : John F. Blake  
Deputy Director for Administration

SUBJECT : Comments on HAC S&I Report

(C) Attached are our comments on those questions in the HAC S&I Report which were deemed to be of concern to this Directorate. For ease of reference we have prepared individual pages on each question or set of questions. The comments on Housing and Cost-of-Living Allowances (p. 41) and Limited Benefits (p. 43) were prepared by the Office of General Counsel incorporating suggestions from the SSA/DDA. We have also asked OGC to prepare comments on [redacted] Procedures (p. 40); these will be forwarded on Wednesday, 5 April.

Signed: John F. Blake  
John F. Blake

Attachments: a/s

Distribution:

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Trial Period and Selection-Out Processes (page 21)

1. What plans does the Agency have to improve the selection-out process for unsatisfactory case officers?

Answer: The Agency policy for separation or "selection out" of employees is provided in [ ] which includes a specific requirement in paragraph 1 for the identification of individuals ranked in the annual comparative evaluation in the low 3 percent of the grade group or functional category by reason of poor performance. Identification in this low percentile for a second consecutive year requires action on the part of the Career Service, i.e., counseling, downgrading or separation. This particular exercise of identification does not, however, preclude management from taking action at any time to separate an individual where there is clear and documented evidence of unsatisfactory performance, or for that matter one whose talents or expertise are surplus to the needs of the Agency.

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2. What consideration has been given the recommendation that case officers performance be reviewed at the end of 5 years or the completion of two overseas tours for consideration of selection out and again at the end of 20 years for forced retirement?

Answer: Agency policy [ ] requires an annual comparative evaluation of personnel in grades GS-09 through GS-14 by Heads of Career Services through the mechanism of Career Boards or Panels. Most Career Services include the GS-15 grade level in this requirement. From this evaluation exercise comes the ranking of individuals, promotion recommendations and the identification of the employees who fall into the low 3 percent of the grade or category. This annual review and ranking, therefore, automatically provides for a 5-year and a 20-year review.

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A 20-year forced retirement program would require statutory change in the retirement laws which have an age factor related to years of service; many individuals with 20 years of service would not have the necessary age. CIARDS requires 50 years of age and 20 years of service. The government "involuntary retirement" policy, which requires special approval and is limited to surplus personnel conditions, requires 25 years of service for retirement earlier than at age 50.

3. Will the Agency continue to assign case officers found to be weak in overseas assignments to headquarters jobs with no further plans for their overseas assignment or utilization?

Answer: The assumption that the DDO headquarters and overseas assignments/positions must all be interchangeable, requiring the same talents and abilities of incumbents, and that the best interests of the Agency require constant interchange is invalid. An individual who is a weak performer in an overseas situation may be outstanding at headquarters, and vice versa. Separation of such an individual would deny the Agency, e.g., DDO, of the services of a thoroughly competent officer because he or she is, for an example, not an agent handler, or alternatively, not a staff officer.

The DDO does require a large complement of interchangeable officers, but there are some requirements peculiar to either overseas or headquarters which accommodate the assignment of individuals not otherwise suitable for interchange.

Independent Contractors (page 27)

1. Is not the use of independent contractors in roles normally filled by staff or contract employees a device to avoid position ceilings?

2. What steps is the Agency taking to prevent future employment of independent contractors in roles that should be filled by staff or contract employees?

Answer: It is not, nor has it been, Agency policy to hire independent contractors to avoid personnel ceiling charges. The guidelines and standards for determining when an individual is an independent contractor or has an employee relationship with the Agency are provided in [redacted] and [redacted] revised in August 1976 to amplify the pertinent criteria). These standards are closely applied by the Office of Personnel when reviewing contract requests, and whenever there is a question of category utilization, the matter is referred to the Office of General Counsel for determination.

It is always possible, of course, that over a period of time an independent contractor may develop an employee-like relationship, and it is the supervisor's responsibility to request review and appropriate change in status when this happens. In addition to this supervisory responsibility, the Office of Personnel reviews the status each time a contract is renewed, amended or rewritten.

As an aid to determining the category of individuals hired by the DDO, that Directorate has issued several internal guidances to further clarify the status of employment and has instituted an internal review by CMS prior to submission of contract requests to the Office of Personnel for action.

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